

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JEREMY COLE DEHART,

Petitioner,

v.

EASTERN DISTRICT FEDERAL
COURT,

Respondent.

Case No. 1:24-cv-00617-CDB (HC)

**FINDINGS AND RECOMMENDATIONS
TO DISMISS PETITION FOR WRIT OF
HABEAS CORPUS WITHOUT
PREJUDICE FOR PETITIONER'S
FAILURE TO PROSECUTE AND TO
OBEY COURT ORDERS**

(Doc. 1)

14-DAY DEADLINE

Clerk of the Court to Assign District Judge

Petitioner Jeremy Cole Dehart ("Petitioner"), a state prisoner, proceeds pro se and *in forma pauperis* with a petition for writ of habeas corpus filed under 28 U.S.C. § 2254. (Doc. 1).

Background

On July 22, 2025, following a preliminary screening of the petition, the undersigned concluded Petitioner failed to name a proper respondent. (Doc. 9). Accordingly, Petitioner was ordered to file a motion to amend the petition to name a proper respondent within 30 days of issuance of the screening order. (*Id.* at 3). Petitioner was cautioned that any failure to comply would result in a recommendation that the action be dismissed. (*Id.* at 2-3) (citing *Sky v. Stolc*, 497 F. App'x 696, 696 (9th Cir. 2012) (affirming dismissal of petition with prejudice for failure to name proper respondent; "Failure to name the proper respondent strips the district court of

1 personal jurisdiction.”) (citing *Ortiz-Sandoval v. Gomez*, 81 F.3d 891, 894 (9th Cir. 1996)). More
 2 than 30 days have elapsed, and Petitioner has failed to file a motion to name the proper
 3 respondent.

4 **Governing Legal Standards**

5 Local Rule 110, corresponding with Federal Rule of Civil Procedure 11, provides that
 6 “[f]ailure of counsel or of a party to comply with these Rules or with any order of the Court may
 7 be grounds for imposition by the Court of any and all sanctions . . . within the inherent power of
 8 the Court.” E.D. Cal. Local Rule 110. The Court has the inherent power to control its docket and
 9 may, in the exercise of that power, impose sanctions where appropriate, including dismissal of the
 10 action. *Bautista v. Los Angeles Cnty.*, 216 F.3d 837, 841 (9th Cir. 2000). A court may dismiss an
 11 action based on a party’s failure to prosecute an action, obey a court order, or comply with local
 12 rules. *See, e.g., Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure
 13 to comply with a court order to amend a complaint); *Malone v. U.S. Postal Service*, 833 F.2d 128,
 14 130-31 (9th Cir. 1987) (dismissal for failure to comply with a court order); *Henderson v. Duncan*,
 15 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for failure to prosecute and to comply with local
 16 rules).

17 “In determining whether to dismiss an action for lack of prosecution, the district court is
 18 required to weigh several factors: (1) the public’s interest in expeditious resolution of litigation;
 19 (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public
 20 policy favoring disposition of cases on their merits; and (5) the availability of less drastic
 21 sanctions.” *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (internal quotation marks &
 22 citation omitted). These factors guide a court in deciding what to do and are not conditions that
 23 must be met in order for a court to take action. *In re Phenylpropanolamine (PPA) Products*
 24 *Liability Litigation*, 460 F.3d 1217, 1226 (9th Cir. 2006) (citation omitted).

25 Similarly, Federal Rule of Civil Procedure 41(b) allows the Court to dismiss an action if
 26 the petitioner fails to comply with a court order. Fed. R. Civ. P. 41(b). “By its plain text, a Rule
 27 41(b) dismissal . . . requires a court order with which an offending [petitioner] failed to comply.”
 28 *Applied Underwriters, Inc. v. Lichtenegger*, 913 F.3d 884, 891 (9th Cir. 2019) (internal quotation

1 marks, citation, and footnote omitted). The Court must analyze five factors before dismissing a
2 case pursuant to Rule 41(b): “(1) the public’s interest in expeditious resolution of litigation; (2)
3 the court’s need to manage its docket; (3) the risk of prejudice to the [respondents]; (4) the public
4 policy favoring disposition of cases on their merits; and (5) the availability of less drastic
5 alternatives.” *Id.* (quoting *Yourish v. Cal. Amplifier*, 191 F.3d 983, 990 (9th Cir. 1999));
6 *Pagtalunan v. Galaza*, 291 F.3d 639, 642 (9th Cir. 2002). These factors guide a court in deciding
7 what to do and are not conditions that must be met in order for a court to take action. *In re*
8 *Phenylpropanolamine (PPA) Products Liability Litigation*, 460 F.3d 1217, 1226 (9th Cir. 2006)
9 (citation omitted).

10 **Discussion**

11 Here, in addition to failing to name a proper respondent (a ground upon which the Court
12 may dismiss the petition with prejudice, *see Sky*, 497 F. App’x at 697), Petitioner has failed to
13 comply with the Court’s order and Local Rules. Petitioner has filed no response to the Court’s
14 order to file a motion to amend to name a proper respondent, and the time to do so has expired.
15 There are no other reasonable alternatives available to address Petitioner’s failure to respond and
16 otherwise obey this Court’s orders. Thus, the first and second factors—the expeditious resolution
17 of litigation and the Court’s need to manage its docket—weigh in favor of dismissal. *Carey*, 856
18 F.2d at 1440. The third factor, risk of prejudice to Respondent, also weighs fairly in favor of
19 dismissal since a presumption of injury arises from the occurrence of unreasonable delay in
20 prosecuting an action. *See Anderson v. Air W.*, 542 F.2d 522, 524 (9th Cir. 1976). This matter
21 cannot proceed further without Petitioner’s participation to prosecute the case with a petition that
22 (1) is signed by the Petitioner; (2) identifies relevant information concerning whether Petitioner
23 has exhausted his state remedies; and (3) provides factual support for the grounds for relief. (*See*
24 Doc. 15 at 2-3). The presumption of injury holds given Petitioner’s unreasonable delay in
25 prosecuting this action. Thus, the third factor—a risk of prejudice to the Respondent—also
26 weighs in favor of dismissal. *Carey*, 856 F.2d at 1440.

27 The fourth factor usually weighs against dismissal because public policy favors
28 disposition on the merits. *Pagtalunan v. Galaza*, 291 F.3d 639, 643 (9th Cir. 2002). However,

1 “this factor lends little support to a party whose responsibility it is to move a case toward
2 disposition on the merits but whose conduct impedes progress in that direction.” *In re PPA*, 460
3 F.3d at 1228. Petitioner has not moved this case forward toward disposition on the merits.
4 Rather, his failure to comply with this Court’s orders prevents the action from progressing given
5 that his failure to name a proper respondent deprives this Court of personal jurisdiction. (See
6 Doc. 9 at 2 (citing *Sky v. Stolc*, 497 F. App’x 696, 696 (9th Cir. 2012))). Therefore, the fourth
7 factor — the public policy favoring disposition of cases on their merits — also weighs in favor of
8 dismissal. *Carey*, 856 F.2d at 1440. Finally, the Court’s warning to a party that failure to obey
9 the court’s order will result in dismissal satisfies the “considerations of the alternatives”
10 requirement. *Ferdik*, 963 F.2d at 1262. Here, as discussed above, the Court’s order cautioned
11 Petitioner that failure to comply would result in a recommendation that the action be dismissed.
12 (Doc. 9 at 2-3).

13 **Conclusion and Recommendation**

14 For the reasons given above, the Clerk of Courts is DIRECTED to assign a United States
15 District Judge to this action.

16 Further, IT IS RECOMMENDED as follows:

17 1. The Court DISMISS this action for Petitioner’s failure to prosecute this action and
18 to comply with the Court’s orders (*see* E.D. Cal. Local Rule 110); and
19 2. The Clerk of the Court be DIRECTED to close this case.

20 These Findings and Recommendations will be submitted to the United States District
21 Judge assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days
22 after being served with a copy of these Findings and Recommendations, a party may file written
23 objections with the Court. Local Rule 304(b). The document should be captioned, “Objections to
24 Magistrate Judge’s Findings and Recommendations” and shall not exceed 15 pages without leave
25 of Court and good cause shown. The Court will not consider exhibits attached to the Objections,
26 but a party may refer to exhibits in the record by CM/ECF document and page number. Any
27 pages filed in excess of the 15-page limitation may be disregarded by the District Judge when
28 reviewing these Findings and Recommendations under 28 U.S.C. § 636(b)(1)(C).

1 A party's failure to file any objections within the specified time may result in the waiver
2 of certain rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014).

3 IT IS SO ORDERED.

4 Dated: August 27, 2025



5 UNITED STATES MAGISTRATE JUDGE

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28